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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|--|-------------|-----------------------|-------------------------------|------------------|
| 10/666,437   | 09/22/2003  | Thomas J. Kennedy III | P-4277-2-1-1 (SLDZ 2<br>0031) | 8315             |
| 24492  | 7590        | 03/25/2005            | EXAMINER                      |                  |
| THE TOP-FLITE GOLF COMPANY, A WHOLLY OWNED<br>SUBSIDIARY OF CALLAWAY GOLF COMPANY<br>2180 RUTHERFORD ROAD<br>LEGAL DEPT<br>CARLSBAD, CA 92008-7328 |             |                       | GORDON, RAEANN                |                  |
|  |             |                       | ART UNIT                      | PAPER NUMBER     |
|  |             |                       | 3711                          |                  |
| DATE MAILED: 03/25/2005  |             |                       |                               |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                             |  |
|------------------------------|------------------------|-----------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>         |  |
|                              | 10/666,437             | KENNEDY ET AL.<br><i>CD</i> |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>             |  |
|                              | Raeann Gorden          | 3711                        |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 December 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
  - 4a) Of the above claim(s) 2,5-8,10 and 15-41 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,4,9 and 11-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, 4, 9, 11, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller (5,770,325) in view of Xu et al (5,488,907). Regarding claims 1, 3, and 4, Keller discloses a dimpled golf ball with indicia made from ink. The transfer medium is a method step and does not appear to further limit the final golf ball (see MPEP 2113). Keller discloses a UV curable ink but does not disclose a UV curable used in an ink jet printer, according to applicant. Xu is cited to teach the use of printing on articles using an ink-jet printer. Since an ink jet printer is used the ink must be equivalent to applicant's. Regarding claim 9, the golf ball includes a topcoat (col. 4). Regarding claim 11, the indicia may be applied on a primer, which is placed on the cover (col. 5, lines 1-12). Regarding claim 12, primer coating obviously promotes adhesion. Regarding claim 14, the ink is a UV curable ink (abstract). The ink is obviously cured once applied to the golf ball. One of ordinary skill in the art would have implemented an ink jet printer for applying indicia for easier application.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller in view of Hatch et al (5,817,735). Keller discloses the invention as shown above but does

not disclose a primer comprising magnesium silicate. However, Hatch discloses a primer for a golf ball comprising magnesium silicate. One of ordinary skill in the art would have included a magnesium silicate in the primer to enhance the color of the ball thereby producing better clarity of the indicia (col. 6, lines 5-12).

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3, 4, 9, and 11-14 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 571-272-4409. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rg  
March 9, 2005



RAEANN GORDON  
PRIMARY EXAMINER